IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
FIRST APPEAL NO.89 OF 2007

Mathorlal Dhivar (since deceased through L.R)
Smt.Hiravatidevi M. Dhivar ...Appellant

vs.

Lallu Chandrabali Dhivar and anr. ...Respondents

Mr.Ashok Misra i/b M/s.Pandey & Co. for the Appellant

CORAM: A.S.OKA,J.
DATE : JANUARY 23,2007.

P.C.:

1. Heard Advocate for the Appellant. The Appellant is the Plaintiff. Copies of the pleadings, notes of evidence and all other relevant documents are placed on record of the Appeal.

2. I have heard the Advocate for the Appellant. The case of the Appellant is that he has a title over room no.16 which is occupied by the first Respondent. The Appellant-Plaintiff has filed a separate suit for possession against the first Respondent. The first Respondent obtained electricity connection from the second Respondent for the Room No.16 in his possession. The prayer in the suit subject matter of the Appeal is for declaration that grant of electricity connection to the first Respondent is illegal.

3. The Trial court has dismissed the suit by observing that the suit for possession by the Appellant against the first Respondent is pending and since the first Respondent is in

possession of the room in question, no decree can be passed for disconnecting the supply of electricity.

4. Perusal of the cross examination of the Appellant shows that the admittedly the first Respondent is occupying the room No.16. The Appellant admitted that electricity from the meter standing in the name of the first Respondent is used in room No.16. Merely because electricity supply is granted to the first Respondent, no right is created in favour of the first Respondent in respect of the said room. Proper adjudication as regards the alleged right of the first Respondent to occupy the room in question will be naturally made in the suit for possession filed by the Appellant-Plaintiff. There is no error in the impugned Judgment.

5. Subject to what is stated above, Appeal is dismissed with no order as to costs.

JUDGE